CARL L. BLALACK,) AGBCA Nos. 2003-159-1
	2005-114-1
Appellant)
Representing the Appellant:)
)
Michael K. Branstetter, Esquire	,)
Hull & Branstetter, Chartered)
P. O. Box 709)
Wallace, Idaho 83873	
Representing the Government:)
1)
Randall J. Bramer, Esquire)
Office of the General Counsel)
U. S. Department of Agriculture)
P.O. Box 25005)
Denver, Colorado 80225-0005	·)

DECISION OF THE BOARD OF CONTRACT APPEALS

March 22, 2005

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK.

These appeals arise out of Contract No. 50-0281-9-95, Tepee Creek Restoration, Idaho Panhandle National Forests, Idaho, between Carl L. Blalack, of Cataldo, Idaho (Appellant), and the U. S. Forest Service, an agency of the U. S. Department of Agriculture (the Government). AGBCA No. 2003-159-1 was received at the Board March 14, 2003. The appeal was originally docketed as an accelerated appeal under Board Rule 12.3. After the parties filed pleadings, the Government submitted an Appeal File (AF) and Appellant submitted additional documents to be included in the AF. A hearing was set for September 10-12, 2003. The Board issued a pre-hearing order, including an order on proof of costs. Thereafter, Appellant filed an amended complaint, increasing his monetary claims from \$29,424 to \$104,819.50. This monetary increase required the claim to be certified and meant that the appeal was no longer eligible for accelerated proceedings. Because of difficulty in obtaining the necessary documentation to respond to the order on proof of costs, Appellant requested the hearing be continued. The postponement of proceedings required the appeal to be removed from the docket. Subsequently, the Board ruled that the allegations to the amended

complaint were so different from the previous allegations as to require them to be presented to the Contracting Officer (CO) for a decision. The revised claim was presented to the CO for decision. The claim alleged additional excavation, loading, hauling and spreading of material. When no decision had been issued on the revised claim by November 12, 2004, the Appellant appealed the CO's deemed denial of his claim. This appeal was docketed as AGBCA No. 2005-114-1. The previous appeal was subsumed into the new appeal. The Board thereafter set a hearing for April 12-14, 2005, to be held in Coeur d'Alene, Idaho.

The Board has now received a joint stipulation from the parties indicating that the appeals have been settled and requesting dismissal with prejudice.

DECISION

D	4 - C 41	41	1	1::1	:41:	:
Pursuant to the re	eallest of the	narnes ine	anneais are	aismissea	with preilidi	ice.
i dibduiit to tiic it	equest of the	parties, the	appears are	aibiiiibbea	with projuct	LCC.

ANNE W. WESTBROOK
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

JOSEPH A. VERGILIO Administrative Judge

Issued at Washington, D.C. March 22, 2005